

REMARKS

The Applicants request reconsideration of the rejection.

Claims 34-77 are now pending, including new claims 74-77. The new claims are supported, at least, by Fig. 16 and the associated description.

The Applicants submitted an Information Disclosure Statement and Form PTO-1449 on January 29, 2001. However, the Applicants have not received an initialed Form PTO-1449 from the Examiner acknowledging his consideration of the references. The Applicants again respectfully request that the Examiner include an initialed Form PTO-1449 with the next Patent Office communication. A copy of the Form PTO-1449 filed on January 29, 2001 is attached for the Examiner's convenience.

Claims 34-51, 54-57, 60-63, 66-69 and 72-73 stand rejected under 35 U.S.C. §102(e) as being anticipated by Ausubel, U.S. Patent No. 5,905,975 (Ausubel '975). Claims 52-53, 58-59, 64-65 and 70-71 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ausubel in view of Fisher, U.S. Patent No. 5,835,896 (Fisher). The Applicants traverse as follows.

Ausubel '975 is not prior art to the present application, on its face. Ausubel '975 was filed January 2, 1997, after the Japanese priority date (September 4, 1996) of the present application (via the claim for domestic priority benefits under 35 U.S.C. §120 to prior U.S. Application No. 08/916,154 (filed in the U.S. on September 2, 1997) and the claim for foreign priority benefits under 35 U.S.C. §119 to Japanese priority Application No. 08-233918 (filed in Japan on September 4, 1996)). An accurate, verified translation of the Japanese priority application accompanies this Reply.

The Applicants note that Ausubel '975 also claims domestic priority benefits, as a continuation-in-part of Application No. 08/582,901 (filed January 4, 1996), and to provisional application Nos. 60/009,979 (filed January 4, 1996) and 60/030,043 (filed November 5, 1996). However, none of these prior applications, to which Ausubel '975 claims priority, discloses the features set forth in the present claims, and as asserted in the present rejections. Thus, it appears that the January 2, 1997 date of Ausubel '975 is the earliest date of disclosure to which the rejections can refer, and the rejections are overcome by the submission of the present translation of the Applicants' priority application, which fully supports the rejected claims.

In addition, the Applicants note that the parent application to which Ausubel '975 claims benefits as a continuation-in-part (Application No. 08/582,901) matured as U.S. Patent No. 6,026,383, which is of record in the present prosecution history, and which has been distinguished previously.

Further, the citation to provisional Application No. 60/009,979 appears to be in error, in that this provisional application is to applicants Fathman, et al., and relates to subject matter entirely different from the system and method of executing an auction disclosed by Ausubel '975.

Moreover, provisional Application No. 60/030,043 is not prior art to the present application, in view of the provisional application filing date of November 5, 1996, which is later than the September 4, 1996 priority date enjoyed by the present application via the claim to foreign priority benefits as perfected by the filing of the Japanese priority application.

In summary, the Applicants request withdrawal of the present application because

1) Ausubel '975 is not prior art to the present application in view of the foreign priority date to which the present application claims benefits under 35 U.S.C. §119, and in view of the translated priority application submitted with this paper; and

2) None of the parent application No. 08/582,901, provisional Application No. 60/009,979, or provisional Application No. 60/030,043, to which Ausubel '975 claims benefits, discloses the subject matter on which the present rejections rely, and therefore the teachings of Ausubel '975 cannot be asserted prior to the January 2, 1997 filing date of Ausubel '975.

New claims 74-77 are dependent claims, and therefore further limit the invention which is deemed patentable in view of the foregoing arguments. Accordingly, claims 74-77 are also patentable over the prior art.

In view of the foregoing amendments and remarks, the Applicants request reconsideration of the rejection and allowance of the claims.

To the extent necessary, the Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Mattingly, Stanger, Malur & Brundidge, P.C., Deposit Account No. 50-1417 (referencing attorney docket no. ASA-672-02).

Respectfully submitted,

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